

Preliminary Analysis of the Revised House Heroes Act (9/29/2020)

See the [one-page summary](#), [section-by-section summary](#), and [legislative text](#) (revised)

The Heroes Act (H.R. 925*) released by House Democrats on Sept. 25, 2020, is a \$2.2 trillion COVID relief package that calls for another round of checks to individuals, renewal and extension of unemployment benefits for unemployed workers, approximately \$430 billion in aid to governments, and temporary repeal of the cap on the deductibility of state and local taxes. It also would provide money for testing, education, election security, the postal service, and targeted relief for airlines, restaurants, and private performance venues.

As discussed more fully below, the legislation incorporates several of the urgent policy priorities articulated in the [new Nonprofit Community Letter](#) but falls short in some significant areas. The revised Heroes Act would provide **forgivable loans** to some larger nonprofits left out of prior COVID relief laws, calls for improvements to the **Main Street Lending Facility**, and would expand the **Employee Retention Tax Credit** in ways that would benefit all sizes of nonprofit employers. The bill's approach to improving the **Paycheck Protection Program** generally reflects nonprofit asks – expanded eligibility, streamlined forgiveness processes, and access to a second round of forgivable loans.

In the area of **unemployment costs**, the bill extends for six months temporary relief for nonprofits and governments set to expire at the end of the year, but fails to increase coverage of 100% of the costs of **self-insured nonprofits** and other employers. The legislation does not include an improved **above-the-line deduction** or a nonprofit grants program, known as the **WORK NOW Act**, that would strengthen the ability of charitable organizations to expand employment and advance their missions in communities.

Here are the key provisions relating to nonprofit community policy priorities:

- **PPP Revisions (Division E):**
 - **Set Aside for Nonprofits:** The bill would set aside 30 percent of PPP funds for nonprofits of all sizes and types to receive first-time PPP loans. (Sec. 102, page 565)
 - **Large 501(c)(3) nonprofits:** Nonprofits with more than 500 employees could apply for PPP loans, but must show quarterly losses in revenues (“gross receipts”) of at least 25 percent. (Sec. 204, page 579) *Elsewhere, the bill would require the Federal Reserve to create a low-cost loan option tailored to the unique needs of nonprofit organizations, including an ability to defer payments without capitalization of interest. (Division O, Sec. 605, page 1687)*
 - **PPP Loan Forgiveness:** The bill would streamline the loan forgiveness process. Borrowers with loans of less than \$50,000 would only be required to certify to the SBA that it followed the requirements of the loan and retain documentation in the event of an audit. Borrowers with loans of between \$50,000 and \$150,000 would only be required to certify to their lenders that they complied with the terms of their loan using a simplified application and retain documentation. Loans of more than \$150,000 would follow the existing procedures. (Sec. 203, page 576)
 - **Second Round PPP Loans:** The Heroes Act would permit loans of up to \$2 million to employers with less than 200 employees that can demonstrate quarterly losses in gross receipts of at least 25 percent. (Sec. 202, page 569) Quarterly losses are measured for the same quarter (first, second, or third) in 2020 and 2019.
 - **Lobbying Salaries** would no longer be treated as eligible payroll costs under PPP loans. (Sec. 204, page 580)
 - **“Gross Receipts”:** The House bill does not include the flawed definition of “gross receipts” found in Senate bills that focuses exclusively on donations.

* The legislation has been given the bill number **H.R. 925**, replacing an existing bill that had been amended in the Senate.

- **Economic Injury Disaster Loan (EIDL) Revisions (Division E)**
 - The bill would establish an **SBA Lifeline Grant Program** for employers with 50 or fewer employees to provide grants of up to \$50,000 to be used for normal EIDL purposes, and to repay PPP or EIDL loans. The provision would authorize \$40 billion for the grants, with \$20 billion set aside for applicants in low-income communities, owned by disadvantaged individuals, and entities affected by the Canadian border closure. (Sec. 405, page 613)
 - The bill would modify the EIDL to prevent SBA from imposing loan caps less than the program's statutory cap of \$2 million and would allow existing EIDL borrowers to modify their loans to seek additional funds up to the cap. (Sec. 406, page 621)
- **Unemployment Relief for Nonprofits (Division I)**
 - **State Loans:** Extends for six months the moratorium on interest charged on loans taken out by states. The summary states, "the interest-free loans allow them to maintain sufficient trust fund balances to avoid triggering additional automatic employer tax increases." (Sec. 402, page 993)
 - **Reimbursing Employers:** Extends for six months the 50% federal coverage of the costs of self-insured employers, but does not increase the coverage to 100% as sought by the nonprofit community. The summary states, "Reimbursable employers do not pay state unemployment taxes, and normally are required to reimburse states for 100 percent of the cost of unemployment benefits paid to workers they lay off or furlough." (Sec. 403, page 993)
- **Employee Retention Tax Credit (Division F, Title II)**
 - Consistent with the earlier HEROES Act (H.R. 6800) passed in May, the bill would significantly expand the ERTC by raising the credit from 50% to 80% of wages, modify the phase in of the value of the credit beginning at reduced gross receipts of 10%, increase the value of the credit from \$10,000/year to \$15,000/quarter per employee for to 3 quarters, expand the number of employees to which the credit applies, among other changes. (Sec. 201, page 791) The bill would also permit employers to take both PPP and ERTC during different periods. (Division E, Sec. 301, page 601)
- **Changes to Paid Leave Mandates and Tax Credits**

The bill also would make numerous changes to the Paid Leave provisions first enacted as part of the **Families First Coronavirus Response Act**. Among other things, it would extend the emergency paid sick leave mandate to employers with more than 500 employees (eliminating the large-employer exemption), repeal the authority of the Labor Department to exempt employers with fewer than 50 employees, expand paid leave from 10 weeks to 12 weeks, and make corresponding changes to the refundable payroll tax credits provisions. The bill would not extend the tax credits to employees with more than 500 employees. (Leave provisions: Division C, title I; Tax provisions: Division F, Secs. 141 and 143)
- **State and Local Aid**
 - The bill would provide \$238 billion to the states and DC. (page 43)
 - The legislation would also provide \$179 billion to municipalities and counties. (page 46)
 - It would provide further flexibility for the Coronavirus Relief Fund by expanding its use for lost, delayed, or decreased revenue stemming from COVID-19 and extending the deadline for expenditure to Dec. 31, 2021. (Division U, Sec. 203, page 2137)
- **Census Matters**
 - The bill would appropriate \$410 million for census operations. (page 15)
 - Extend to April 30, 2021 the date for transmittal of the census count to Congress, mandate that the report includes the "whole number of persons in each state," and require that counting operations continue through Oct. 31. (Division R, Sec. 201, Page 1963)
- **Federal Student Loans:**

The bill would extend suspension of payments through Sep. 30, 2021 without interest, expand Public Service Loan Forgiveness to public or nonprofit hospital and health care workers, remove the requirement that a borrower be employed in a public service employer at the time of forgiveness. (Division B, Secs. 131-133, 137 & 138, pages 311-324, 328-343)